

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

FILED
BILLINGS DIV.

2010 FEB 5 AM 11 08

PATRICK E. DUFFY, CLERK

JOHN ROBERT DEMOS

CV-09-169-BLG-RFC-CSO

Plaintiff,

DEPUTY CLERK

vs.

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE**

**MONTANA DEPARTMENT OF
CORRECTIONS,**

Defendants.

United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 3*) on Demo's § 2254 Petition for Writ of Habeas Corpus (*Doc. 1*). Since Demos is not incarcerated in Montana and has never been convicted of a crime in this state, Magistrate Judge Ostby recommends the petition be denied for lack of jurisdiction. Magistrate Judge Ostby further recommends the Court deny a certificate of appealability and certify, pursuant to Rule 24(a)(4)(B) Fed.R.App.P., that any appeal of this decision would not be taken in good faith.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no

party filed objections to the Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). Failure to object, however, does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

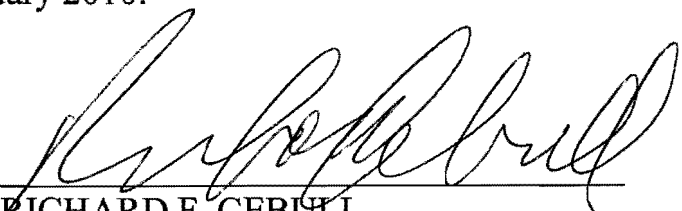
After a thorough review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Demos's petition (*Doc. 1*) is **DENIED**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**. Finally, the Court certifies, pursuant to Rule 24(a)(4)(B) Fed.R.App.P., that any appeal of this decision would be taken in bad faith.

The Clerk of Court shall notify the parties of the entry of this Order and enter judgment accordingly.

DATED the 5 day of February 2010.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE